

**REMARKS**

Claims 11-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, and the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections.

Claims 11 and 19, as well as claim 12-16 and claim 17 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over George, Jr. '458 in view of Lew et al. '974. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the following remarks.

As an initial matter, the Applicant notes that the present invention is for an "illumination device", that is to say, one providing for the illumination of an object to enable features of the particular object to be comprehended by an observer. The class of such a device would include a reading lamp and, on a more powerful scale, a light to illuminate a road sign or a flood light for a church facade.

An illuminating device is intended to illuminate objects other than itself and contrasts with a signal which is intended to draw attention to itself for whatever reason. A "signal" (which is not an "illumination device"), when energized, functions to show its existence to an observer. An example of a signal would be a set of traffic lights, ship's lights or a lighthouse. The fact that a "signal" may illuminate an object (including a surface) in the vicinity of the signal is incidental to its function. It is not intended to enable an observer to consider details of the illuminated object. A "signal" would also include a decorative device which, when energized, provides for the device to be viewed as a decorative feature rather than one illuminating another object for the sake of the object.

George '458 is concerned with "decorative light tubing" in which miniature lamps connected in series between a pair of elongated parallel wire conductors is substantially filled with mineral oil or other clear viscous dielectric fluid to protect the lamps against the adverse

effects of vibration, shock and moisture while also enhancing the visual effect. George '458 discusses the history and usage of low voltage lighting particularly in relating to vibration and shock forces such as are encountered in such as fair ground rides. George '458 is concerned with "decorative light tubing" which, in the present discussion, is clearly intended as a "signal".

Different from the decorative light assemblies for amusement park rides as described in George '458, Lew et al. '974 relates to a hand held baton having a fluid medium containing suspended colored reflective platelets to enhance the visual appearance of the baton. The structure of Lew et al. '974 is entirely different from George '458. Observing Figs. 1-8 of Lew et al. '974 a hand held baton 1 is made up of an annular transparent tube 2 and an active or passive light-emitting tube 3 of a smaller diameter disposed coaxially within the annular tube 2, the combination being sealed at two extremes thereof. The annular tube 2 contains liquid 6 including freely suspended platelets 7 with light reflecting surfaces. A number of uses are proposed for the baton including use as a toy, twirling baton, night time safety light for joggers and cyclists and a guide marker for directing traffic and taxiing aircraft.

To ensure the suspended platelets 7 function to reflect light, the baton needs to be agitated and the platelets 7 must be freely suspended within the fluid so that "...the tumbling and wandering movements of the platelets 7 created by the agitated fluid medium 6 are depicted and revealed optically that pleases the observer's eyes", see column 2, lines 20-23 of Lew et al. '974. To ensure the baton is portable, it needs to be battery powered. Lew et al. '974 is not concerned with permanently affixing to an object, nor providing a connected circuit of such light devices as in George '458.

As the Examiner is aware, in order to properly support a combination of references, the individual references must provide some disclosure, teaching or suggestion which would lead one of skill in the art to combine the references to meet all the features of the presently claimed invention. In view of the above noted differences it is the Applicant's position that these references are directed to entirely different structure, function and use, and that no one of skill

in the art would not in any manner combine a battery powered handheld signal baton with a fixed in place decorative signal device as in George '458.

Even if it is possible to combine these references as suggested by the Examiner, and the Applicant adamantly refutes any such combination of these references would still fail to disclose, teach or suggest in any manner all the aspects and features of the presently claimed invention.

Claim 11 has been amended to specifically recite the features ". . .*a plurality of closely packed, transparent optical particles lying in the body member and extending contiguously between the at least one source of light and a side of the at least one transparent region which is directed towards an inside of the body member*". The present invention specifically requires that the optical particles be "transparent". Even if the platelets 7 could be utilized with the George '458 device, Lew et al. '974 describes only "reflective" platelets 7, there is no discussion, or suggestion relating to such platelets 7 being *transparent* as specifically recited in new claim 21. While it may be that the Applicant's transparent optical particles, e.g. glass balls, may be to some extent reflective based on the nature of light and its relative properties of bending and reflecting at material boundary layers, there is nothing in Lew et al. '974 which indicates either expressly or inherently that the reflective platelets could be transparent. In fact, the very nature of the only description of these platelets 7 being reflective teaches away from the platelets being transparent as in the presently claimed invention.

Further, claim 11 requires the transparent optical particles to be "a plurality of closely packed transparent optical particles. . .". As described above, the platelets 7 in Lew et al. '974 are suspended in the fluid so that ". . .the tumbling and wandering movements of the platelets 7 created by the agitated fluid medium 6 are depicted and revealed optically that pleases the observer's eyes". A combination of such platelets with George '458, even if possible, would still not disclose the Applicant's specifically claimed invention having a closely packed mass of optical particles.

In addition, as also now recited in claim 11, the mass of closely packed optical particles of the present invention are arranged within the illumination device so that the transparent optical particles lying in the body member are, "...extending contiguously between the at least one source of light and a side of the at least one transparent region". Because the freely floating platelets in Lew et al. '974 are not closely packed, nor contiguous as now clearly recited in claim 11 even a combination of these references fails to disclose, teach or suggest such a structure. Furthermore, the wandering and floating of the platelets 7 as expressly described in Lew et al. '974 teaches specifically away from a closely packed, contiguous mass of glass beads as clearly described in the Applicant's claims. As noted throughout the Applicant's specification, this arrangement of glass ball particles in the present invention assists in the diffusion of light. It is important to note that the applied references are not concerned with light diffusion as such (rather light reflection from reflective platelets). They do not use transparent optical particles in any similar structure nor for such a purpose as claimed in the present invention.

Turning to the obviousness rejection of claim 12, the Examiner asserts that in regards to claim 12, the applicant's glass balls solve no particular problem, nor are they used for any particular reason or function. Taking specific issue with this, the Applicant notes that George '458 does not mention optical particles of any sort. Neither George '458 nor Lew et al. '974, whether separately or in combination, raises the issue of diffusion as discussed throughout the present application. Neither reference involves the use of or benefits to be obtained from, or of the use of, transparent optical members in general or of glass members in particular in relation to diffusion and the subject of illumination as opposed to signals. Since neither George '458 nor Lew et al. '974 address the notion of diffusion, it would appear unreasonable to assert that one of ordinary skill in the art would make "an obvious matter of design choice" to use glass balls.

It might well be in hindsight that having read the Applicant's present application "one of ordinary skill in the art" might wish to use glass balls for diffusion purposes. However, such

a conclusion or feature would certainly not follow from merely a reading of George '458 and Lew et al. '974, who do not have any clear relationship between them (apart from generally belonging to the class of "signal" devices) and do not, in combination, disclose or teach the presently claimed invention in any way.

Neither do the applied references alone or in combination support the Examiner's rejection of previous claims 13-16 and 17 all of which contain specific features which are not disclosed, taught or suggested in any manner by the applied references. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding obviousness rejections or applicability of the George '458 and Lew et al. '974 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In any event, as claims 12-20 are dependent either directly or indirectly on claim 11 the Applicant believes these claims to be allowable as well in view of the above amendments and remarks.

Additionally, in view of the Examiner's indication that claim 18 was allowable if it were amended to overcome the § 112, second paragraph, rejection and include all the limitations of the base claim, the Applicant has added new claims 21-28, of which claim 21 now includes the subject matter of claim 18 and thus, is believed to be allowable. As claims 22-28 depend directly or indirectly from claim 21, the Applicant believes these claims to be allowable as well, and thus no further discussion is provided.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments, remarks, and new claims 21-28 it is respectfully submitted that all of the raised obviousness rejections should be withdrawn at this time.

In view of the foregoing, it is respectfully submitted that the raised obviousness rejections should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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